

a.m. in room SD-215, to conduct a hearing on the business and financial practices of the American Association of Retired Persons.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE AGREEMENT BY GREAT BRITAIN AND CHINA ON THE ESTABLISHMENT OF HONG KONG'S COURT OF FINAL APPEAL

• Mr. MACK. Mr. President, the agreement reached last week by British and Chinese negotiators for a new Court of Final Appeal in Hong Kong is a grave setback to the rule of law in the territory. The deal violates the 1984 Sino-British Joint Declaration and its guarantees for Hong Kong's legal system by building on the 1991 secret deal on the Court, and using the 1990 Basic Law to make end runs around the Joint Declaration. In reaching this deal, the British side also conceded on the important matter of an early establishment of the court to prevent a gap in appellate jurisdiction in the colony during the transition from London's Privy Council to the new high court. Governor Patten claims that it was worth waiting until July 1, 1997, for the court to begin its work in exchange for an agreement. But this is really just postponement of a bad deal.

Under the Joint Declaration, Hong Kong's courts are vested with the judicial power, including the power of final adjudication. Also, under the Joint Declaration, judicial independence is explicitly guaranteed, and the elected legislature must confirm appointments to the Court of Final Appeal. Each of these explicit promises made in the Joint Declaration, signed in 1984 by Margaret Thatcher and Zhao Ziyang, is expressly violated in last week's deal.

I would like to address one aspect of the deal specifically—the provision under which Hong Kong's courts will, after 1997, be prevented from hearing and adjudicating matters known as “acts of state.” I specifically wish to address this because British and Hong Kong government officials are quietly advising that the act of state doctrine is extremely complicated and arcane. In effect, they are saying: “Don't try and understand it.” That is offensive.

The “acts of state” doctrine is not difficult to understand. In the common law, it is a well-known and narrow category involving actions by one sovereign vis-à-vis another, such as a declaration of war, or a treaty. The last such case arose in Hong Kong in 1947.

Under the terms of the agreement, Hong Kong's courts will be restricted from adjudicating “acts of state” as defined in the Basic Law of the Hong Kong Special Administrative Region. Beijing passed the Basic Law, often referred to as the colony's post-1997 constitution in 1990. The Basic Law contains numerous and substantial viola-

tions of the Joint Declaration, yet the uncritical acceptance of the document by Great Britain has allowed the Basic Law to play an insidious role in the transition to PRC rule.

Great Britain and the PRC have now agreed that Article 19 of the Basic Law will define the jurisdiction of Hong Kong courts. Article 19 provides that “acts of state such as defence and foreign affairs” will be outside the courts' jurisdiction. The deliberate ambiguity of this formulation leaves the matter up to Beijing which has already assigned the power of interpreting the Basic Law to the Standing Committee of the National People's Congress rather than Hong Kong's courts. The Basic Law's definition of acts of state now endorsed by the British government of Hong Kong is vague and will, without a doubt, be used by the People's Republic of China to deny Hong Kong's courts the ability to hear and adjudicate challenges to the Beijing-appointed government after 1997.

Both Britain and the People's Republic of China made specific and detailed commitments to preserving Hong Kong's legal system after 1997. In recent years, China has made its intentions regarding those commitments crystal clear: it will not honor them. Britain has been more subtle, styling itself as a defender of Hong Kong while engaging in diplomatic backsliding.

Great Britain's failure to meet its commitments regarding the rule of law will irreparably damage its historical legacy in the colony. I hope that in light of the strong criticism and concern that have been expressed at the announcement of this deal, Great Britain will revise its legislation on the Court of Final Appeal to make it consistent with the Joint Declaration. Furthermore, Great Britain and the Hong Kong government should move with speed and conviction to repeal colonial laws and establish an official human rights commission. •

ORDERS FOR WEDNESDAY, JUNE 14, 1995

Mr. COCHRAN. Mr. President, at the request of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Wednesday, June 14, 1995; that following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 9:30 a.m., with the 30 minutes equally divided between Senators MACK and BRADLEY; further, that at the hour of 9:30 a.m. the Senate resume consideration of S. 652, the telecommunications bill, and there be 20 minutes for debate on the Feinstein amendment to be equally divided in the usual form, to be followed immediately by a vote on or in relation to the Feinstein amendment No. 1270, to be followed by a vote on or in rela-

tion to the Gorton amendment No. 1277, to be followed by a vote on the motion to invoke cloture on S. 652, with the mandatory live quorum waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO FILE SECOND-DEGREE AMENDMENTS

Mr. COCHRAN. I now ask unanimous consent that notwithstanding the provisions of rule XXII, all Members have until the hour of 9:30 a.m. in order to file second-degree amendments to S. 652.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COCHRAN. For the information of my colleagues, there will be three consecutive rollcall votes beginning at 9:50 tomorrow morning. The third vote in the order is the motion to invoke cloture. If cloture is invoked, it is the intention of the majority leader to stay in session late into the evening on Wednesday with votes in order to complete action on the bill.

ORDER FOR RECESS

Mr. COCHRAN. If there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order following the remarks of Senator SANTORUM.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM addressed the Chair. The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair. I appreciate the Senator from Mississippi providing this time for me.

THE PRESIDENT'S BALANCED BUDGET

Mr. SANTORUM. I rise to keep vigil with the President on his plans to introduce a balanced budget under the same circumstances that we had to in the Senate, with precise cuts, precise reductions in the rate of growth in some programs, changes in the tax law that would get us to a balanced budget.

Just a few minutes ago, the President concluded what he termed —this is from the White House press release— The President's Economic Plan: A Balanced Budget That Puts People First.

He just concluded a minute or two ago. Obviously, I was here on the Senate floor. I was not able to see the actual address, but I have before me—I feel like Johnny Carson—I have before me the actual press release that outlines how he is going to get to a balanced budget over 10 years. Now, it is interesting that he is going to take it over a 10-year period. You would think that balancing the budget over a 10-